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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 James Lee Peasley,

No. CV-19-08353-PCT-JJT (DMF)

10 Petitioner,

**ORDER**

11 v.

12 David Shinn, *et al.*,

13 Respondents.

14

15 At issue is the Report and Recommendation (Doc. 12) (“R&R”) submitted in this  
16 matter by United States Magistrate Judge Deborah M. Fine, recommending the Court  
17 dismiss with prejudice the pending Petition for Habeas Corpus (Doc. 1). In the R&R, Judge  
18 Fine warned Petitioner he had 14 days from the date of its service to file any objections  
19 thereto, and failure to timely file any objections “will be considered a waiver of  
20 [Petitioner]’s right to appellate consideration of the issues” per *United States v. Reyna-*  
21 *Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003), and a waiver if his right to appellate review of  
22 any findings of fact and conclusions of law the Court adopts in this Order pursuant to the  
23 R&R, per Fed. R. Civ. P. 72. (R&R at 31.)

24 It has been over eight weeks since entry of the R&R and Petitioner filed no  
25 objections; he therefore has waived the above rights, and the Court is entitled to accept the  
26 R&R without further review. Even if the Court reviewed the R&R on its merits, however,  
27 it would conclude that Judge Fine’s exhaustively thorough recommendations and findings  
28 are all legally sound and supported by the record.

1        Judge Fine correctly concluded in the R&R that the Petition is at least two years  
2 untimely, under the most charitable interpretation of applicable statutory tolling law, and  
3 the claims within it are in any event all procedurally defaulted without excuse. She also  
4 correctly concluded even if the merits of Ground Three were reached, it is not cognizable  
5 in habeas proceedings.

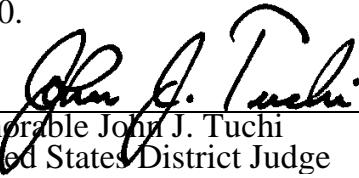
6        IT IS ORDERED adopting the Report and Recommendation (Doc. 12) including its  
7 underlying reasoning.

8        IT IS FURTHER ORDERED dismissing with prejudice the Petition for Habeas  
9 Corpus (Doc. 1).

10        IT IS FURTHER ORDERED denying a Certificate of Appealability, upon the Court's  
11 finding that dismissal is justified by a plain procedural bar and reasonable jurists would not  
12 find the procedural ruling debatable.

13        IT IS FURTHER ORDERED directing the Clerk of Court to terminate this matter.

14        Dated this 25th day of August, 2020.

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16        Honorable John J. Tuchi  
17        United States District Judge

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